

REMARKS/ARGUMENT

Request for Continued Examination:

An RCE is being filed herewith.

Request for Personal Interview:

A telephone interview with the Examiner is respectfully requested. Applicant's representative will contact the Examiner by telephone to set a mutually convenient date and time.

Regarding the Claims in General:

Claims 4-18 are now pending. Claim 1 has been canceled without prejudice and has been rewritten as new claim 14, and claims 4-13 have been amended. In some instances, these amendments have been made to better highlight distinguishing features of the invention, and to address the rejection under 35 U.S.C. §112. Other amendments have been made to correct errors noted in the claims during preparation of this communication, and to conform to customary idiomatic English and grammar, and U.S. claim practice.

The claims now recite more explicitly what was already at least implicit in the claims as previously presented, and have therefore not been narrowed for statutory purposes related to patentability.

New claims 15-18 have been added to provide applicant additional protection to which he appears to be entitled in light of the known prior art.

Regarding the Objections to the Drawings:

Reconsideration is respectfully requested of the Examiner's objection to the drawings. With respect to the limitation "the one aperture being sized to not receive the second boss" previously appearing in claim 1, the corresponding limitation in claim 14 is --the first boss is configured and located so that it is not able to be received in the aperture--. That is clearly illustrated in the plan views of Figures 2 and 3 wherein it is obvious that the first boss 10 is configured and positioned so that it cannot be received in aperture 42.

With respect to the limitation “the head being countersunk in the thickness of the plane tool” appearing in claim 4, the configuration above second boss 20 and complementary aperture 42 are clearly shown in Figures 1-3. The specification describes several alternatives for the length of the second boss and the thickness of plane tool 40. In one of these alternatives, the body of the second boss is long enough to extend beyond the bottom surface of the plane tool. In another, it is too short to do so, and therefore is “countersunk.”

With respect to the limitation in claim 4 that “the head emerges only partially out of the sides of the tool” also purportedly appearing in original claim 4, the Examiner has incorrectly quoted the original language. Be that as it may, however, the limitation in question in claim 4 now reads -- emerges only partially out of an opposite side of the tool--. It is respectfully submitted that this feature is also adequately shown in Figures 1 and 3, particularly when considered in conjunction with the description in the specification.

For the foregoing reasons, it is respectfully submitted that the drawings are acceptable in their present form, and that the objection to the drawings should be withdrawn.

Regarding the Rejection under 35 U.S.C. §112:

Applicant respectfully requests reconsideration and withdrawal of the rejection under the first paragraph of 35 U.S.C. §112. The basis of this rejection is the purported failure of the specification to disclose that the head includes a second boss. In reference to this, the Examiner’s attention is respectfully directed to page 4, paragraph [0017] of the specification and to Fig. 1 of the drawing. Here, the second boss is identified by reference numeral 20, and is clearly shown and described as extending from base 2. Thus, the recitation in claims 1 and 13 that “the *head* comprises a second boss . . .” was an error. This has been corrected in claims 13 and 14, which now recite --a second boss projecting from the base--.

It is noted in addition, that in claims 1 and 13, the features attributed to the claimed “first boss” are actually those of second boss 20, and the claimed “second boss” is actually boss 10. This error has also been corrected in claims 13 and 14. Corresponding clarifying amendments have been made in claims 7-10 as well.

Applicant respectfully requests reconsideration and withdrawal of the rejection under the second paragraph of 35 U.S.C. §112. To the extent that this is based on the recitation of a second

boss in claims 1 and 13, this has been addressed above. As to claim 7, the reference to “toward the edge” has been replaced by a description based on the relationship between the two bosses, and the groove connecting the aperture to the edge of the plane tool has been recited. As to claims 11-13, the word “parallelepiped” has been replaced by --parallelogram--.

Regarding the Prior Art Rejections:

In the outstanding Office Action, claim 13 was rejected as being anticipated by the Kytta ‘759 patent, the Dion ‘971 patent, and the Mez ‘547 patent. Also, claims 1 and 4-13 were rejected as being unpatentable over Fuchs U.S. Patent 5,192,011 (Fuchs). Reconsideration and withdrawal of these rejections in view of the amendments made herein are respectfully requested.

Dealing first with the rejections under 35 U.S.C. §102 of claim 13, these appear to have been based on the erroneous recitation of the head of one of the bosses comprising a second boss. Despite that, the rejection is improper in that the claim required that the second boss project from the base and be spaced apart on the base from the first boss. That clearly is not the case in any of Kytta, Dion, and Mez.

Needless to say, the correction of the error in claim 13 overcomes this rejection.

With respect to the rejection of claims 1-13 based on Fuchs, the Examiner is respectfully requested to consider as a preliminary matter whether the rejection is in compliance with both the letter and spirit of the applicable MPEP provisions concerning explanation of a rejection under 35 U.S.C. §103. The Examiner, in effect, has simply said that “Fuchs shows a plane tool (2) having apertures and centering members as seen in figure 1C.” The Examiner then refers to the Kytta, Dion, and Mez patents as showing constructions having various features of the claimed second boss, and concludes without any real explanation that to substitute these constructions for the bolted construction of Fuchs would be obvious. The Examiner has not explained why it would be obvious or how the features recited in claims 4-12 correspond to structure found in the secondary references.

Even if the Examiner’s rejection is regarded as adequately satisfying the MPEP requirements, it is still improper. To begin with, none of the secondary references disclose, teach, or suggest a centering tool, and in fact all of these references are directed to fasteners. These are clearly non-analogous art, as they are not from applicant’s field of endeavor, nor are they concerned, in their respective contexts, with solving applicant’s problem.

Fuchs is directed to solution of an entirely different problem than that of the present invention. In Fuchs, the concern is to facilitate the configuration of punches on the upper tool of a blank separating station while in the present invention, the problem is properly aligning the lower tool which contains the multiple apertures through which the waste material from the die cut work pieces is ejected. Actually, the apparatus of Fuchs is directed to a different approach to waste stripping in that in Fuchs, the desired portions of the die cut sheets are ejected through the openings in the bottom plane tool, whereas in the present invention, the waste material is ejected.

Apart from this, however, Fuchs is concerned with installation of the punches which engage the die cut sheets to strip the waste material and has nothing at all to do with the centering blocks which are used to lock the upper and lower plane tools in proper registration relative to the flow path of the die cut work pieces. Thus, it is apparent that Fuchs and the present invention have nothing in common other than they are both applicable to the manufacture of blanks intended to be folded to form containers.

Claims 13 and 14 are clearly patentable over Fuchs, whether considered alone, or in combination with the secondary references. In particular, claim 13, which is directed to the centering member *per se*, recites:

- a base for placement at a tool;

- a first boss projecting from the base,

- a second boss projecting from the base and spaced apart on the base from the first boss;

- the second boss comprising a trunk, a head connected to the trunk at a joint;

- a groove located at the joint between the trunk and the head,

- the groove being of a size to give the head a mechanical elasticity as compared to the remainder of the boss, whereby the mechanical elasticity of the head makes the head a gripping device on the head for directly connecting with the tool;

- wherein each of the first and second bosses is generally a right parallelogram in cross section.

New claim 14 contains similar recitation of the features of the centering member.

Apart from the fact that it entirely fails to disclose, teach or suggest a centering device, none of the above limitations are found in Fuchs. Moreover, none of the fasteners shown in the secondary references can reasonably be described as a boss (i.e., a protruding member), but even apart from this, none of them have cross-sections which are right parallelograms.

For all of these reasons, the rejection based on Fuchs should be withdrawn.

Claims 4-12, and 15-18 are dependent on allowable claim 14, and are therefore allowable for the reasons stated above. In addition, these claims recite features which, in combination with the features of their respective parent claims are neither taught nor suggested in Fuchs, or in any of the secondary references, whether considered singly, or in combination.

In view of the foregoing, favorable reconsideration and allowance of this application are respectfully solicited.

EXPRESS MAIL CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee (mail label #EV342541190US) in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on June 22, 2005:

Dorothy Jenkins

Name of Person Mailing Correspondence

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Signature

June 22, 2005

Date of Signature

LAH:lac

Respectfully submitted,

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